

200847

FMCSA-2001-11117



U.S. Department  
of Transportation

**Federal Motor Carrier  
Safety Administration**

DEPT. OF TRANSPORTATION

02 NOV -5 PM 1:35

**Administrator**

400 Seventh St., S.W.  
Washington, D.C. 20590

AUG 22 2002

Refer to: MC-PRR

The Honorable Ed Whitfield  
U.S. House of Representatives  
Washington, DC 20515

*FMCSA-2001-11117-9*

Dear Congressman Whitfield:

**Thank** you for your June 17 letter, cosigned by your congressional colleagues, concerning our ongoing rulemaking to require background checks **for** commercial drivers transporting hazardous materials in commerce. The rulemaking is required by Sec. 1012 of the Uniting and Strengthening America by Providing Appropriate Tools to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) [Pub. L. 107-56, 115 Stat. 272].

Current regulations under **49** CFR section 383.3(f) authorize States to issue a restricted commercial driver's license (CDL) to seasonal drivers in farm-related service industries after waiving the specialized knowledge and skills tests that are normally required for a hazardous materials endorsement to a CDL. With a restricted CDL, such drivers are subject to numerous driving and operational limitations. You requested that the agency's implementing rules for Sec. 1012 preserve the State's authority to issue and renew restricted CDLs to seasonal workers in farm-related service industries.

We will consider your comments, along with those of other interested parties, **as** we develop this rulemaking. Copies of your letter and this response have been placed in the rulemaking docket (FMCSA-2001-11117). You may examine the docket contents by visiting the Docket Management System online at <http://dms.dot.gov/search.htm> and entering the last 5 digits of the docket number.

Thank you for your continued interest in motor carrier safety. An identical letter has been sent to each cosigner of your letter.

Sincerely yours,

**Joseph M. Clapp**



U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration

Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

AUG 22 2002

Refer to: MC-PRR

The Honorable Mitch McConnell  
United States Senate  
Washington, DC 20510

Dear Senator McConnell:

Thank you for your June 17 letter, cosigned by your congressional colleagues, concerning **our** ongoing rulemaking to require background checks for commercial drivers transporting hazardous materials in commerce. The rulemaking is required by Sec. 1012 of the Uniting and Strengthening America by Providing Appropriate Tools to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) [Pub. L. 107-56, 115 Stat. 272].

Current regulations under **49** CFR section 383.3(f) authorize States to issue a restricted commercial driver's license (CDL) to seasonal drivers in farm-related service industries after waiving the specialized knowledge and skills tests that are normally required for a hazardous materials endorsement to a CDL. With **a** restricted CDL, such drivers are subject to numerous driving and operational limitations. You requested that the agency's implementing rules for Sec. 1012 preserve the State's authority to issue and renew restricted CDLs **to** seasonal workers in farm-related service industries.

We will consider your comments, along with those of other interested parties, as we develop this rulemaking. Copies of your letter and this response have been placed in the rulemaking docket (FMCSA-2001-1117). You may examine the docket contents by visiting the Docket Management System online at <http://dms.dot.gov/search.htm> and entering the last 5 digits of the docket number.

Thank you for your continued interest in motor carrier safety. An identical letter **has** been sent to each cosigner of your letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joseph M. Clapp".

Joseph M. Clapp



U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration

Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

AUG 22 2002

Refer to: MC-PRR

The Honorable Ernie Fletcher  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Fletcher:

Thank you for your June 17 letter, cosigned by your congressional colleagues, concerning our ongoing rulemaking to require background checks for commercial drivers transporting hazardous materials in commerce. The rulemaking is required by Sec. 1012 of the Uniting and Strengthening America by Providing Appropriate Tools to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) [Pub. L. 107-56, 115 Stat. 272].

Current regulations under **49** CFR section **383.3(f)** authorize States to issue a restricted commercial driver's license (CDL) to seasonal drivers in farm-related service industries after waiving the specialized knowledge and skills tests that are normally required for a hazardous materials endorsement to a CDL. With a restricted CDL, such drivers are subject to numerous driving and operational limitations. You requested that the agency's implementing rules for Sec. 1012 preserve the State's authority to issue and renew restricted CDLs to seasonal workers in farm-related service industries.

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**Thank** you for your continued interest in motor carrier safety. An identical letter has been sent to each cosigner of your letter.

Sincerely yours,

Joseph M. Clapp



U.S. Department  
of Transportation

Federal Motor Carrier  
Safety Administration

Administrator

400 Seventh St., S.W.  
Washington, D.C. 20590

AUG 22 2002

Refer to: MC-PRR

The Honorable Ron Lewis  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Lewis:

*Thank* you for your June 17 letter, cosigned by your congressional colleagues, concerning our ongoing rulemaking to require background checks for commercial drivers transporting hazardous materials in commerce. The rulemaking is required by Sec. 1012 of the Uniting and Strengthening America by Providing Appropriate Tools to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act) [Pub. L. 107-56, 115 Stat. 272].

Current regulations under **49 CFR** section 383.3(f) authorize States to issue a restricted commercial driver's license (CDL) to seasonal drivers in farm-related service industries after waiving the specialized knowledge and skills tests that are normally required for a hazardous materials endorsement to a CDL. With a restricted CDL, such drivers are subject to numerous driving and operational limitations. You requested that the agency's implementing rules for Sec. 1012 preserve the State's authority to issue and renew restricted CDLs to seasonal workers in farm-related service industries.

We will consider your comments, along with those of other interested parties, **as** we develop this rulemaking. Copies of your letter and this response have been placed in the rulemaking docket (FMCSA-2001-11117). You may examine the docket contents by visiting the Docket Management System online at <http://dms.dot.gov/search1.htm> and entering the last 5 digits of the docket number.

**Thank** you for your continued interest in motor carrier safety. **An** identical letter has been sent to each cosigner of your letter.

Sincerely yours,

Joseph M. Clapp

# Congress of the United States

Washington, DC 20525

FMCSA-2001-11117

June 17, 2002

Mr. Joseph Clapp  
Administrator  
Federal Motor Carrier Safety Administration  
400 7th Street Southwest  
Washington, D.C. 20590

Dear Administrator Clapp:

We are writing to bring to your attention an issue of importance to us and to our farm retail constituents that is part of your agency's rulemaking on background checks for commercial drivers transporting hazardous materials. Specifically, we urge **you** to affirm state authority to issue and renew seasonal CDL's (also called restricted CDL's) as part of FMCSA's background check rulemaking.

As you know, DOT regulations 49 CFR ~~Part~~ **383** authorizes states to issue seasonal CDL's to certain drivers in farm-related service industries. DOT regulations place strict limitations on these seasonal CDL's. Seasonal CDL holders are limited to a 150 mile radius of the farm store, are not allowed to operate tractor trailers, are prohibited from crossing state lines and are issued the license for no more than 180 days. Furthermore, seasonal CDL's authorize the transportation of diesel fuel and a few specific fertilizers and are not valid for transportation of any other hazardous materials.

Generally, seasonal CDL holders are retired farmers or retired drivers who hire on with the farm store for a short period of time to help get crops planted in the spring. Farm cooperatives and independent farm retailers in Kentucky make frequent use of the seasonal CDL program to ensure safe and timely delivery of crop inputs to the farm. Kentucky agriculture could be severely impacted if the seasonal CDL program were to be undermined in any way.


With the above in mind, we urge you to protect the seasonal CDL program as part of DOT's rulemaking process. Please bear in mind that we **are** not advocating an exemption from the background checks, which we wholeheartedly support. We merely are requesting that the rule reiterate state authority to issue seasonal CDL's. In addition, we wish to point out that for the seasonal CDL program to continue to be utilized effectively, background checks would likely have to be completed in no more than 2 to 3 days.


Mr. Joseph Clapp  
June 20, 2002  
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Thank you for your consideration of our request.

Sincerely,

  
Ron Lewis

  
Mitch McConnell

  
Ed Whitfield

  
Ernie Fletcher